



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/814,156

04/01/2004

Keith L. Knisley

22349.00

7368

37833 7590 08/01/2006

LITMAN LAW OFFICES, LTD  
PO BOX 15035  
CRYSTAL CITY STATION  
ARLINGTON, VA 22215

EXAMINER

MICHALSKI, SEAN M

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/814,156	<b>Applicant(s)</b> KNISLEY ET AL.	
	<b>Examiner</b> Sean M. Michalski	<b>Art Unit</b> 3725	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 06/13/2006 have been fully considered but they are not persuasive.

2. In regards to applicants argument that the cutting blade is integrally and permanently attached:

- The term permanently *is not used in the claim* and so has no bearing on analysis thereof.
- The term integrally is not limited to contiguous structures, but includes structures as shown in Examiners cited references. Items that have been bolted, welded, glued or screwed together fall under the term "integrally" joined. See *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973), which recites in part " 'integral' is sufficiently broad to embrace constructions united by such means as fastening and welding". See also *Henderson v. Grable*, 52 CCPA 920, 339 F.2d 465, 144 USPQ 91 (1964).

3. In regards to applicants contention that the integrality of the structure, "allows a greater ... force to be exerted..."

- It has been held that to make a structure strong enough to meet its intended use is not inventive, that is, it is obvious. See *In re Prinzler*, 37 USPQ 789 (CCPA 1938) which states in part, "The general rule is that there *is no invention* in making a device strong enough to perform the function for which it is designed".

- Applicant has presented no evidence that the invention allows a greater force to be exerted, the mere allegation of such is no argument at all.

4. In regards to applicant's argument that Sweeny fails to teach the deficiencies of Reale, this argument is moot, since the alleged deficiencies do not exist, as outlined above.

5. It is noted that Applicant has acknowledged the notoriety of dually edged cutting blades and that the claims thereto have been cancelled.

6. In regards to applicants assertion that the Visco reference is Non-analogous, Examiner disagrees. Applicant has provided no evidence that the art is non-analogous, merely stating that the blade functions in a different manner. However, the particular problem that would recommend the Visco reference to one of ordinary skill in the art is the general problem of strengthening a blade for use in cutting. This problem is enough to recommend an examination of the Visco reference. Upon examination, the Visco reference provides the motivation to combine, and a person of ordinary skill in the art would have a reasonable expectation of success. Visco states, in part, "Shears for piercing tough animal skin", which indicates that the shears are intended to be used not only in a shearing motion as applicant contends, but *also in a longitudinally reciprocating motion* similar to that disclosed in the Reale et al. or Sweeney et al. references. The serrated quality of the blade is another indicator that the blade may be used in a sawing fashion to some extent and was intended to be so. There is no other explanation, besides the use of the blade in a sawing fashion that would explain the presence of teeth 22 in figures 1 and 2, since they do not even cooperate in shearing

Art Unit: 3725

fashion with another blade. Visco also states "provided with ribs 25 and 26 for additional strength" but does not specify that the strength is only in a direction parallel to the direction of shear as applicant contends. Examiner believes that this omission taken with the fact that the cutting tool is disclosed as being for longitudinal motion (as in "piercing") would be enough support to show that there is a reasonable expectation of success in adding a rib to provide strength to the blade. That is, Examiner believes that the general statement "provided with ribs 25 and 26 for additional strength" is enough motivation to put a rib on any blade for the general strengthening thereof.

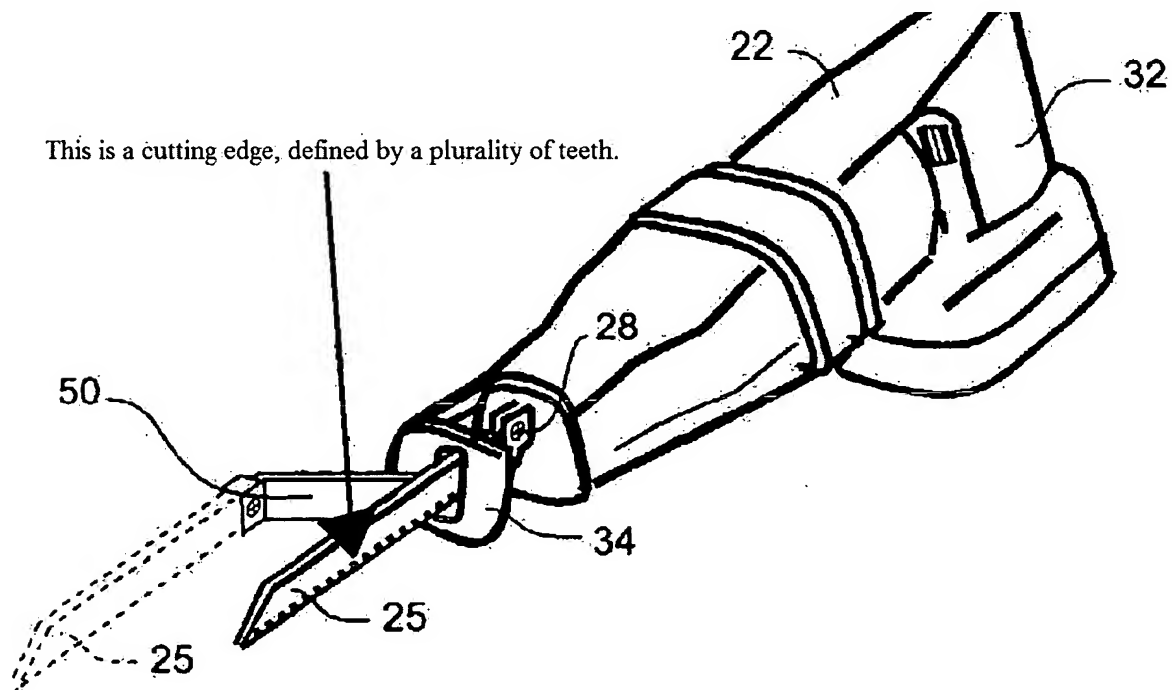
7. In response to applicants assertion that the "essential" subject of the invention is the unitary construction of an offset saw blade, Examiner re-states that making a product which is known in component form into an integral or unitary form is obvious. See *In re Printzler*, 37 USPQ 789 (CCPA 1938) which states in part, "there is no invention in making parts integral instead of riveting or *otherwise fastening* them together" (emphasis added). See also *Howard v. Detroit Stove Works*, 150 U. S. 164; *In re Wickersham*, 22 C.C.P.A. (Patents) 969, 75 F. (2d) 214 [24 U.S.P.Q. 368]; and *In re Bush*, 46 App. D. C. 141. all of which are cited in the Opinion of *In re Printzler*.

### ***Claim Rejections - 35 USC § 103***

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reale et al. in view of Sweeney et al.

Regarding claims 21-23, Reale discloses a saw blade (50 figure 1) with a flat elongated mounting arm (62 figure 2) having a saw mounting end (the portion of 62 by 28 figure 2) adapted for attachment to a reciprocating saw (seen in figures 1 and 2) and having a second end (the end of 62 not connected to 28, figure 2). Reale further discloses a flat elongated connector arm (64 figure 2) with a first end integrally attached to the second end of the mounting arm (seen in figure 2). Reale further discloses a flat elongated cutting blade having a first end (66 figure 2) connected to the second end of said connector arm (the end of 64 which connects to 66) and having a second end (25 figure 2). The cutting blade further comprises a first cutting edge (see picture below) having a plurality of teeth (again refer to picture below).



Reale further discloses that said cutting blade and mounting arm are parallel (they are shown to be parallel in figure 2) and that they extend in opposite directions

Art Unit: 3725

from the connector arm (figure 2). Reale further discloses that the cutting blade can be placed flush against one surface of a 90 degree corner in order to cut around the corner (making a flush cut is described column 3 lines 35-50), the cutting arm being offset from the mounting arm by a distance substantially equal to the length of the connector arm (the distance D in figure 2 is substantially equal to the length of 64). Reale further discloses a gusset plate as a first stabilizer (102 figure 3), being attached to said mounting arm (62 figure 3) and said connector arm (64 figure 2), and a gusset plate as a second stabilizer (102 figure 3) connected to said connector arm (64 figure 2), and cutting plate (66 figure 2). Reale discloses that the connector arm, the cutting blade and the stabilizers are unitary (as in, they are one unit). This is a reasonable interpretation – and a dictionary definition of—“unitary”; it can be seen that the unit of connector arm, the cutting blade and the stabilizers are reciprocated as one unit; they are functionally one as in figures 1 and 2. It should be noted that the fact that the unit may be separated does not deprive it of the fact that it is a unit. For example: a six-pack of soda is a unit which is undeniably separable into its constituent components. Its ability to be separated does not affect the designation “unit”.

Reale does not disclose that the angles between connector arm and blade, or connector arm and mounting arm are at 90 degrees.

Sweeney teaches the use of 90-degree angles as the angles between mounting arm (15 figure 4) and connecting arm (20 figure 4) and connecting arm (20 figure 4) and cutting blade (14 figure 4). In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to modify Reale by making the angles

Art Unit: 3725

90 degrees as taught by Sweeney, since both angles can be used to make flush cuts around 90 degree angles as stated in the specification.

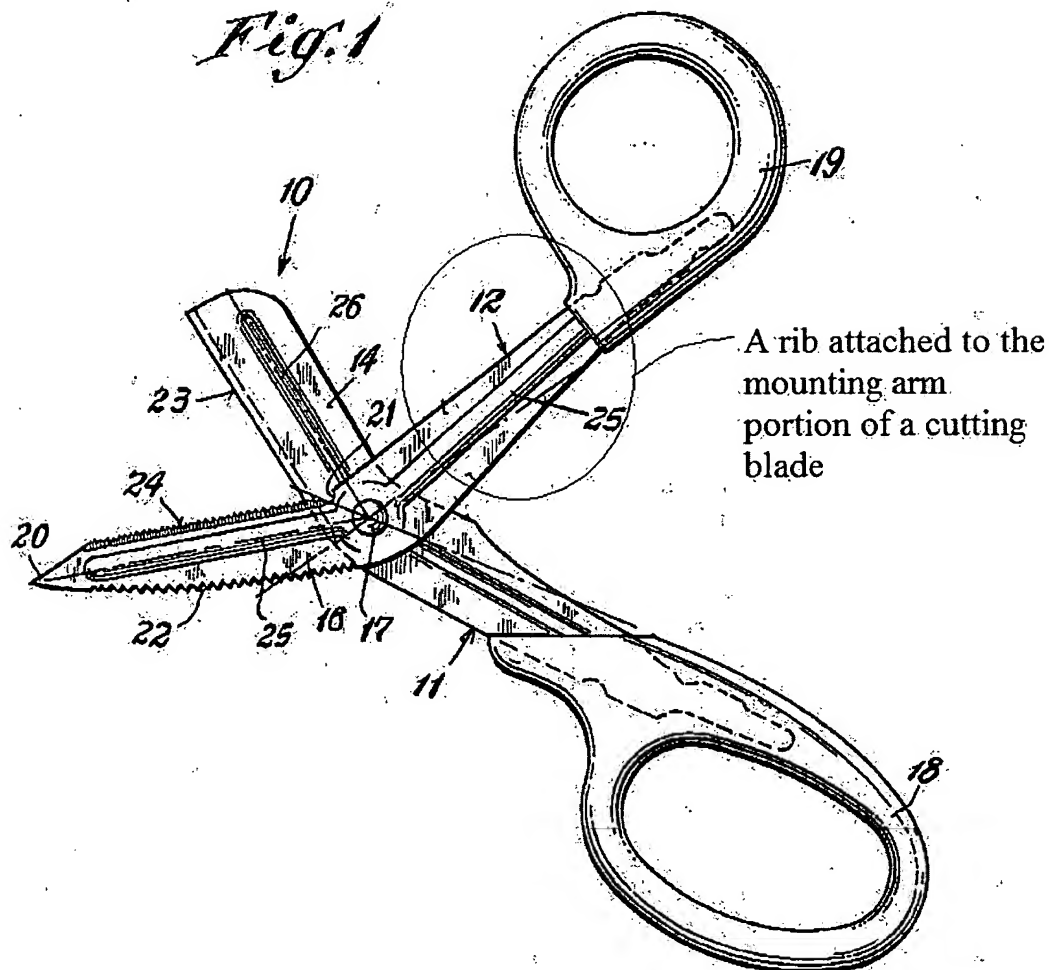
Regarding claim 24 the only limitation not met by Reale in view of Sweeney is that said gusset plates are transversely centrally aligned within said connector plate. It would have been an obvious matter of design efficiency to transversely centrally align the gusset plates, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Regarding applicant's specification on page 10 lines 4-7, there is no criticality to the determination that said gusset plates be centrally transversely aligned. Furthermore, the strengthening effect of the gusset plate is the same whether the plates are centrally aligned or aligned with the top and bottom as disclosed in Reale, since both configurations can be used to make flush cuts around 90 degree angles as stated in the specification.

10. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reale et al. in view of Sweeney et al. in further view of Visco.

Reale et al. in view of Sweeney et al. teaches all the aspects of the claimed invention except for the limitation that there be a reinforcing rib attached to a side of said cutting blade opposite to said gusset plate.



Visco teaches the use of a reinforcing rib (25 and 26 figure 1, as indicated below)



located on the mounting arm section of a cutting blade for the purpose of adding strength (column 2, lines 44-45). In the same problem solving area it would have been obvious to one skilled in the art at the time of the invention to modify Reale et al. in view of Sweeney et al. by providing the cutting blade with a reinforcing rib as taught by Visco. The motivation to combine is that the rib would provide additional strength. Adding a rib for the stated motivation of providing additional strength requires only routine skill in the art.

Regarding applicants allegations that the Visco reference is non-analogous, see above in the section titled "Response to Arguments".

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM

  
BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER